



24 SEP 2002

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In re Application of	:	
FRED A. KISH (deceased)	:	DECISION ON
Application No.: 09/889,843	:	
PCT No.: PCT/US00/01702	:	PETITION
Int. Filing Date: 24 January 2000	:	
Priority Date: 29 January 1999	:	UNDER 37 CFR 1.42
Attorney Docket no.: 3029-72 US	:	
For: SELF REGULATING FLEXIBLE HEATER:	:	

This is a decision on applicant's second "Renewed Submission Under 37 CFR 1.42" filed in the United States Patent and Trademark Office (USPTO) on 22 July 2002.

### **BACKGROUND**

In response to the Notification of Missing Requirements mailed on 31 August 2001, and to satisfy the requirement that an oath or declaration of the inventors be furnished, applicant filed a declaration on 08 January 2002 that was signed by inventors James Surjan, Tilak R. Varma and Edward Bulgajewski and by Antoinette Chiovatero for inventor Fred A. Kish (deceased). The submission was treated as a request for status under 37 CFR 1.42.

On 15 March 2002, a decision was mailed to applicant dismissing the petition under 37 CFR 1.42 on the grounds that the declaration did not clearly state the country of citizenship, former residency and mailing address of both the deceased inventor and the legal representative, and did not clearly state the relationship of the legal representative to the deceased inventor as required for compliance with 37 CFR 1.497

On 30 April 2002, applicant submitted the instant renewed petition under 37 CFR 1.42 along with a statement "Added Page to Combined Declaration and Power of Attorney under 37 CFR 1.42", signed by Antoinette Chiovatero, executrix for deceased inventor Fred A. Kish.

On 04 June 2002, a decision on the renewed petition was mailed to applicant indicating that Ms. Chiovatero's declaration did not comply with the requirements of 37 CFR 1.68 because

it did not indicate that all statements made of her own knowledge are true and all statements, made upon information and belief, are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application.

### DISCUSSION

The submission of 22 July 2002 consists of an added page to the declaration which identifies Antoinette Chiovatero as the executrix for deceased inventor, Fred A. Kish and provides Ms. Chiovatero's citizenship, residency and mailing address. The statement also states the country of citizenship, residency and former known mailing address of Fred A. Kish as required for compliance with 37 CFR 1.497. Ms. Chiovatero's declaration now complies with the requirements of 37 CFR 1.68. Ms. Chiovatero state that all statements made of her own knowledge are true and all statements, made upon information and belief, are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application.

Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.


### CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is presently GRANTED.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C.371 date is **22 July 2002**.



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